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HOUSE BILL 437

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Sheryl Williams Stapleton

AN ACT

**RELATING TO BUSINESS LICENSES; DELETING REFERENCES TO SPECIFIC
CODES IN THE CONSTRUCTION INDUSTRIES LICENSING ACT; AMENDING
SECTIONS OF THE NMSA 1978.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 60-13-2 NMSA 1978 (being Laws 1967,
Chapter 199, Section 2, as amended) is amended to read:**

**"60-13-2. GENERAL DEFINITIONS.--As used in the
Construction Industries Licensing Act:**

**A. "division" means the construction industries
division of the regulation and licensing department;**

**B. "trade bureau" means the electrical bureau, the
mechanical bureau, the general construction bureau or the
liquefied petroleum gas bureau of the division;**

C. "jurisdictional conflict" means any conflict

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1 between or among trade bureaus as to the exercise of
2 jurisdiction over an occupation or trade for which a license is
3 required under the provisions of the Construction Industries
4 Licensing Act;

5 D. "person" includes an individual, firm,
6 partnership, corporation, association or other organization, or
7 any combination thereof;

8 E. "qualifying party" means any individual who
9 submits to the examination for a license to be issued under the
10 Construction Industries Licensing Act and who is responsible
11 for the licensee's compliance with the requirements of that act
12 and with the rules, regulations, codes and standards adopted
13 and promulgated in accordance with that act;

14 F. "certificate of qualification" means a
15 certificate issued by the division to a qualifying party;

16 G. "journeyman" means any individual who is
17 properly certified by the electrical bureau or the mechanical
18 bureau, as required by law, to engage in or work at his trade;

19 H. "apprentice" means an individual who is engaged,
20 as his principal occupation, in learning and assisting in a
21 trade;

22 I. "wages" means compensation paid to an individual
23 by an employer from which taxes are required to be withheld by
24 federal and state law;

25 J. "public use" means the use or occupancy of any

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1 structure, facility or manufactured commercial unit to which
2 the general public, as distinguished from residents or
3 employees, has access;

4 K. "bid" means a written or oral offer to contract;

5 L. "building" means any structure built for use or
6 occupancy by persons or property, including [~~but not limited~~
7 ~~to~~] manufactured commercial units and modular homes or
8 premanufactured homes designed to be placed on permanent
9 foundations whether mounted on skids or permanent foundations
10 or whether constructed on or off the site of location;

11 M "inspection agency" means a firm, partnership,
12 corporation, association or any combination thereof approved in
13 accordance with regulations as having the personnel and
14 equipment available to adequately inspect for the proper
15 construction of manufactured commercial units, modular homes or
16 premanufactured homes;

17 N. "director" means the administrative head of the
18 division;

19 O. "chief" means the administrative head of a trade
20 bureau;

21 P. "commission" means the construction industries
22 commission;

23 Q. "manufactured commercial unit" means a movable
24 or portable housing structure over thirty-two feet in length or
25 over eight feet in width [~~which~~] that is constructed to be

. 143776. 1

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1 towed on its own chassis and designed so as to be installed
2 without a permanent foundation for use as an office or other
3 commercial purpose and ~~[which]~~ that may include one or more
4 components that can be retracted for towing purposes and
5 subsequently expanded for additional capacity, or two or more
6 units separately towable but designed to be joined into one
7 integral unit, as well as a single unit, but ~~[which]~~ that does
8 not include any movable or portable housing structure over
9 twelve feet in width and forty feet in length ~~[which]~~ that is
10 used for nonresidential purposes. "Manufactured commercial
11 unit" does not include modular or premanufactured homes, built
12 to ~~[Uniform Building Code standards]~~ a nationally recognized
13 standard adopted by the commission and designed to be
14 permanently affixed to real property; and

15 R. "code" means a body or compilation of provisions
16 or standards ~~[which]~~ adopted by the commission that govern
17 contracting or some aspect of contracting; ~~[which]~~ that provide
18 for safety and protection of life and health; ~~[which are~~
19 ~~approved]~~ and that are published by a nationally recognized
20 standards association ~~[and which standards are in general use~~
21 ~~in the United States or in a clearly defined region of the~~
22 ~~United States. The term "code" includes the Uniform Building~~
23 ~~Code, the National Electrical Code, the Uniform Plumbing and~~
24 ~~Mechanical Code, the LP Gas Code and any other codes adopted by~~
25 ~~the commission]. "~~

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1 Section 2. Section 60-13-44 NMSA 1978 (being Laws 1967,
2 Chapter 199, Section 52, as amended) is amended to read:

3 "60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS. --

4 A. The electrical bureau shall recommend to the
5 commission minimum standards for the installation or use of
6 electrical wiring. The recommendations shall substantially
7 embody the applicable provisions of an electrical [standards]
8 code for safety to life and property promulgated by a
9 nationally recognized [underwriting laboratory, as approved by
10 a nationally recognized standards association, which standards
11 are in general use in the United States or in a clearly defined
12 region of the United States] association and developed through
13 a voluntary, consensus process compliant with the requirements
14 and standards recommended by the American national standards
15 institute.

16 B. The mechanical bureau shall recommend to the
17 commission minimum standards for the installation of all
18 fixtures, consumers' gas pipe, appliances and materials
19 installed in the course of a mechanical installation. The
20 recommendations shall be in substantial conformity with [the
21 ~~Uniform Mechanical Code published by the international~~
22 ~~conference of building officials and the Uniform Plumbing Code~~
23 ~~published by the international association of mechanical and~~
24 ~~plumbing officials] codes and standards that are developed
25 through a voluntary consensus process compliant with the~~

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1 requirements and standards recommended by the American national
2 standards institute. Manufacturers may choose the independent
3 certification organization they wish to certify their products,
4 if the certification organization is accredited by the American
5 national standards institute or other accreditation
6 organization selected by the commission.

7 C. The general construction bureau shall recommend
8 to the commission minimum standards for the construction,
9 alteration or repair of buildings, except for those activities
10 within the jurisdiction of the electrical bureau or the
11 mechanical bureau. The recommendations shall substantially
12 embody the applicable provisions of a nationally recognized
13 building code that is [~~in general use in the United States or~~
14 ~~in a clearly defined region of the United States]~~ developed
15 through a voluntary consensus process compliant with the
16 requirements and standards recommended by the American national
17 standards institute and shall give due regard to physical,
18 climatic and other conditions peculiar to New Mexico. The
19 standards shall include the authority to permit or deny
20 occupancy of existing and new buildings or structures and
21 authority to accept or deny the use of materials manufactured
22 within or without the state. The general construction bureau
23 may set minimum fees or charges for conducting tests to verify
24 claims or specifications of manufacturers.

25 D. The general construction bureau shall recommend

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1 to the commission additional specifications for any public
2 building constructed in the state through expenditure of state,
3 county or municipal funds, bonds and other revenues, which
4 specifications shall embody standards making the building
5 accessible to individuals who are physically handicapped, and
6 the specifications shall conform substantially with those
7 contained in a nationally recognized standard for making public
8 facilities accessible to the physically handicapped that is
9 developed through a voluntary consensus process compliant with
10 the requirements and standards recommended by the American
11 national standards institute. All orders and rules recommended
12 by the general construction bureau and adopted by the
13 commission under the provisions of this section shall be
14 printed and distributed to all licensed contractors, architects
15 and engineers and to the governor's committee on concerns of
16 the handicapped. The orders and rules shall take effect on a
17 date fixed by the commission, which shall not be less than
18 thirty days after their adoption by the commission, and shall
19 have the force of law.

20 E. The general construction bureau shall have the
21 right of review of all specifications of public buildings and
22 the responsibility to ensure compliance with the adopted
23 standards.

24 F. All political subdivisions of the state are
25 subject to the provisions of codes adopted and approved under

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1 the Construction Industries Licensing Act. Such codes
2 constitute a minimum requirement for the codes of political
3 subdivisions.

4 G. The trade bureaus within their respective
5 jurisdictions shall recommend to the commission standards that
6 are developed through a voluntary consensus process compliant
7 with the requirements and standards recommended by the American
8 national standards institute for the installation or use of
9 electrical wiring, the installation of all fixtures, consumers'
10 gas pipe, appliances and materials installed in the course of
11 mechanical installation and the construction, alteration or
12 repair of all buildings intended for use by the physically
13 handicapped or persons requiring special facilities to
14 accommodate the aged. The recommendations shall give due
15 regard to physical, climatic and other conditions peculiar to
16 New Mexico.

17 H. The trade bureaus within their respective
18 jurisdictions shall recommend to the commission standards for
19 the construction, alteration, repair, use or occupancy of
20 manufactured commercial units, modular homes and
21 premanufactured homes. The recommendations shall substantially
22 embody the applicable provisions or standards for the safety to
23 life, health, welfare and property approved by the nationally
24 recognized standards association and developed through a
25 voluntary consensus process compliant with the requirements and

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1 standards recommended by the American national standards
2 institute, which standards are in general use in the United
3 States or in a clearly defined region of the United States, and
4 shall give due regard to physical, climatic and other
5 conditions peculiar to New Mexico. Wherever existing state
6 codes or standards conflict with the codes and standards
7 adopted by the commission under the provisions of this
8 subsection, the provisions of the New Mexico Uniform Building
9 Code, the New Mexico Electrical Code, the New Mexico Plumbing
10 Code or the Natural Gas Code of New Mexico shall exclusively
11 apply and control, except for codes and standards for mobile
12 housing units.

13 I. Modular homes and premanufactured homes in
14 existence at the time of the effective date of the Construction
15 Industries Licensing Act shall have their use or occupancy
16 continued if such use or occupancy was legal on the effective
17 date of that act, provided such continued use or occupancy is
18 not dangerous to life. Any change in the use or occupancy or
19 any major alteration or repair of a modular home or
20 premanufactured home shall comply with all codes and standards
21 adopted under the Construction Industries Licensing Act.

22 J. The commission shall review all recommendations
23 made under the provisions of this section and shall by rule
24 adopt standards and codes that substantially comply with the
25 requirements of this section that apply to the recommendations

. 143776. 1

1 of the trade bureaus.

2 K. For the purposes of this section, "voluntary
3 consensus process" means that voting rights during the
4 development of codes or standards are not limited to or
5 qualified by a specific professional status or occupational
6 role and that voting rights during all stages of the
7 development process are open to all interested parties."

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